

AO 91 (Rev. 11/11) Criminal Complaint

FILED

UNITED STATES DISTRICT COURT

for the

Western District of Texas

2017 FEB 28 PM 5:38

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXASBY UM
DEPUTY

United States of America)

v.)

Irvin GONZALEZ a.k.a)

Ervin GONZALEZ, a.k.a)

Ervin Edamir Gonzalez, a.k.a Irvin Edamir)
GONZALEZ-Torres)

Case No.

EP:17-M-00643(1) -ATB

Defendant(s)

AMENDED

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.


On or about the date(s) of February 9, 2017 in the county of El Paso in the
Western District of Texas, the defendant(s) violated:*Code Section*

8 USC 1326

Offense Description

being an alien to the United States, enter, attempt to enter, and was found in the United States after having been previously excluded, deported, and removed from the United States without receiving permission to reapply for admission to the United States from the Attorney General of the United States and the Secretary of Homeland Security, the successor pursuant to Title 6, United States Code, Sections 202(3), 202(4), and 557


This criminal complaint is based on these facts:

☒ Continued on the attached sheet.
Complainant's signature

Humberto Chavira, Border Patrol Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 02/28/2017
Judge's signatureCity and state: El Paso, Texas

Anne T. Berton, U.S. Magistrate Judge

Printed name and title

AMENDED AFFIDAVIT

On February 2, 2017, United States Border Patrol (USBP) Agent Chavira, assigned to the Homeland Security Investigations (HSI) El Paso Border Enforcement Security Taskforce (BEST), received information from HSI Special Agent Fuentes on an undocumented alien who was previously removed from and currently residing in the United States. According to the information received from the El Paso Police Department (EPPD) and the U.S. Postal Inspector's Office (USPI), subject GONZALEZ was the head of a money order washing scheme. The money order washing scheme, which involved both GONZALEZ and GONZALEZ' partner, Mario De Avila, involved stealing mail from blue U.S. Post Office drop-off boxes. According to the EPPD and the USPI, GONZALEZ and Mario De Avila retrieved money orders and washed them with transmission fluid in order to remove the name in the "pay to order of" section. USBP Agent Urquidi was also informed by EPPD and the USPI that GONZALEZ and Mario De Avila then wrote Mario De Avila's name on the money orders. GONZALEZ and De Avila deposited the money order into De Avila's Bank of America account and withdraw the money from an ATM. On January 13, 2017, according to an EPPD Detective and a USPI Inspector, Mario De Avila was arrested and charged with forgery of a financial instrument.

The information regarding the arrest and involvement of GONZALEZ' and Mario De Avila was provided to USBP Agent Urquidi by the EPPD. The Detective and Postal Inspector informed USBP Agent Urquidi that, at some time, GONZALEZ went to California for an unknown reason, but later returned to El Paso, Texas. The Postal Inspector informed Agent Urquidi that GONZALEZ filed for a Protective Order against Mario De Avila with the El Paso County Attorney's Office. At that time, EPPD discovered that GONZALEZ was back in El Paso and initiated an interview regarding the money order washing scheme.

When GONZALEZ admitted the scheme to the EPPD Detective and the U.S. Postal Inspector, GONZALEZ advised them of the protective order hearing on February 9, 2017, but did not give the time of the hearing. BEST Agents researched the El Paso County Court website and found that the protective order hearing was scheduled for 9:00 a.m. on February 09, 2017. Because GONZALEZ was residing at the Center Against Sexual and Family Violence (CASFV), and not at GONZALEZ' residence, it was determined that the best opportunity to locate GONZALEZ would be after the hearing.

On the morning of February 9, 2017, HSI BEST Agents set up surveillance outside the El Paso County Courthouse at 500 E. San Antonio, El Paso, Texas in an attempt to arrest GONZALEZ upon entering the courthouse. A short time later, USBP Agent Urquidi and USBP Agent Barrera entered the courthouse and proceeded to the 10th Floor in an attempt to identify GONZALEZ. Before the scheduled 9:00 a.m. hearing, a courtroom employee exited the courtroom and called GONZALEZ, for GONZALEZ' hearing, on three separate occasions. USBP Agent Urquidi

approached the courtroom bailiff and asked if GONZALEZ was present. The bailiff stated that GONZALEZ was in the jury room adjacent to the courtroom. USBP Agents Urquidi and Barrera made an attempt to visually identify GONZALEZ by walking past the jury room. USBP Agents Urquidi and Barrera could not confirm the identity of GONZALEZ because there were several women in the jury room. The bailiff was asked and stated that agents could sit in the courtroom to help identify GONZALEZ since the subject was dressed as a female. USBP Agent Urquidi sat in the courtroom to visually identify GONZALEZ. USBP Agent Urquidi visually identified GONZALEZ when the presiding judge asked GONZALEZ' name.

Once the hearing ended, GONZALEZ exited the courtroom and was taken back to the jury room by a female who later identified herself as a representative of the CASFV, and the door was closed. After several minutes elapsed, agents were then approached by the same female representative and asked if GONZALEZ would be taken. Agents advised the CASFV representative that they would be speaking with GONZALEZ regarding GONZALEZ' immigration status in the United States. Subsequently, GONZALEZ exited the room with the CASFV representative. USBP Agents identified themselves to GONZALEZ, in the Spanish language, and GONZALEZ admitted to being GONZALEZ when asked. Agents asked GONZALEZ about possessing documentation to be in the United States to which GONZALEZ replied no. USBP Agent Urquidi then proceeded to ask GONZALEZ to follow him outside. GONZALEZ was then escorted by Agents Urquidi and Barrera from the hallway to the elevator. The CASFV representative and an attorney from the El Paso County Attorney's office followed behind them onto the elevator. USBP Agent Urquidi, Barrera and GONZALEZ exited on the first floor and made their way outside the courthouse.

USBP Agent Chavira, who was standing on the side walk of 500 E. San Antonio, observed USBP Agent Urquidi, USBP Agent Barrera, and GONZALEZ exiting the main entrance of the El Paso County Courthouse. Agent Chavira asked Agent Urquidi if the subject was GONZALEZ and Agent Urquidi replied yes. USBP Agent Urquidi questioned GONZALEZ as to GONZALEZ' nationality and citizenship and GONZALEZ freely admitted to being a citizen and national of Mexico and to being in the United States illegally which was witnessed by Agent Barrera and Agent Chavira. GONZALEZ admitted to having last entered the United States at or near Santa Teresa, New Mexico without inspection on or about March 16, 2016 to USBP Agent Urquidi.

At that time, an Immigration Officer of the United States had not designated the area where GONZALEZ entered as a Port of Entry (POE) into the United States. GONZALEZ was not admitted or paroled after inspection by an immigration officer of the United States. Subsequently, GONZALEZ was placed under arrest, advised of the charges and handcuffed. GONZALEZ was then transported to the HSI Office located at 11541 Montana, Avenue, El Paso, Texas. At the HSI El Paso SAC Office, GONZALEZ was advised of her Miranda warning rights via form I-214 in the Spanish language, which GONZALEZ acknowledged and

understood by signing. GONZALEZ refused to provide a sworn statement without an attorney present.

Further immigration record checks indicate that GONZALEZ has not applied for, nor received permission from the Attorney General or the Secretary of Homeland Security to reapply for admission into the United States.

A routine query of law enforcement databases revealed GONZALEZ with both a positive immigration and criminal history.

Immigration History:

06/05/2007: Arrested by United States Border Patrol in Calexico, CA, Voluntary Return

06/01/2011: Removed San Ysidro, CA

07/12/2011: Removed Brownsville, TX

09/07/2013: Removed San Ysidro, CA

09/27/2014: Removed Eagle Pass, TX

01/23/2016: Removed Eagle Pass, TX

Criminal History:

On May 3, 2010, in the Superior Court, Los Angeles, California in Cause No. LAA0CA0514401 the Defendant was sentenced to 3 years' probation and 45 days in the County Jail for False Imprisonment.

On February 10, 2011, in the Superior Court, Los Angeles, California in Cause No. LAA0CA0514401 the Defendant was sentenced to 3 years probation and 60 days in the County Jail for a probation violation.

On July 3, 2013 in the Superior Court Los Angeles, California in Cause # LAA0CA0514401 the Defendant was sentenced to 3 years' probation and 45 days in jail for a probation violation.

On, February 10, 2011 in the Superior Court, Los Angeles, California in Cause No. LAA1CA046021 the Defendant was sentenced to 180 days in the County Jail for Domestic Battery.

Defendant was convicted of a felony offense, namely: 8 U.S.C. Section 1326 – Reentry of Deported Alien and 18 U.S.C. Section 1708 – Possession of Stolen Mail, and was sentenced on October 28, 2015 to 12 months' and 1-day imprisonment; said conviction was under Cause No.

3:15-CR-00495-DCG(1), filed in the United States District Court, Western District of Texas, El Paso Division.

On February 15, 2017, in the 168th District Court El Paso County, Texas, in Cause No. 20170D00691 the Defendant was indicted for Forgery Financial Instrument.

Because this Affidavit is being submitted for the limited purpose of establishing probable cause as set forth herein, I have not included each and every fact known to me concerning this investigation.